

MEETING RECORD

NAME OF GROUP: PLANNING COMMISSION

DATE, TIME AND PLACE OF MEETING: Wednesday, May 30, 2001, 1:00 p.m., City Council Chambers, First Floor, County-City Building, 555 S. 10th Street, Lincoln, Nebraska

MEMBERS IN ATTENDANCE: Russ Bayer, Jon Carlson, Steve Duvall, Gerry Krieser, Patte Newman, Greg Schwinn, Cecil Steward and Tommy Taylor (Linda Hunter absent); Kathleen Sellman, Ray Hill, Steve Henrichsen, Mike DeKalb, Jennifer Dam, Ed Zimmer, Jason Reynolds, Becky Horner, Jean Walker and Teresa McKinstry of the Planning Department; media and other interested citizens.

STATED PURPOSE OF MEETING: Regular Planning Commission Meeting

Chair Russ Bayer called the meeting to order and requested a motion approving the minutes for the special meeting on the Capital Improvements Program and Transportation Improvement Program held May 9, 2001. Motion to approve made by Newman, seconded by Schwinn and carried 5-0: Krieser, Newman, Schwinn, Steward and Taylor voting 'yes'; Bayer and Duvall abstaining; Carlson and Hunter absent.

Bayer then requested a motion approving the minutes for the regular meeting held May 16, 2001. Motion to approve made by Duvall, seconded by Krieser and carried 8-0: Bayer, Carlson, Duvall, Krieser, Newman, Schwinn, Steward and Taylor voting 'yes'; Hunter absent.

CONSENT AGENDA

PUBLIC HEARING & ADMINISTRATIVE ACTION

BEFORE PLANNING COMMISSION:

May 30, 2001

Members present: Bayer, Carlson, Duvall, Krieser, Newman, Schwinn, Steward and Taylor; Hunter absent.

The Consent agenda consisted of the following items: **SPECIAL PERMIT NO. 1915 AND ANNEXATION NO. 01004.**

Item No. 1.2, Annexation No. 01004, was removed from the Consent Agenda and scheduled for separate public hearing.

Newman moved to approve the remaining Consent Agenda, seconded by Carlson and carried 8-0: Bayer, Carlson, Duvall, Krieser, Newman, Schwinn, Steward and Taylor voting 'yes'; Hunter absent.

Note: This is final action on Special Permit No. 1915, unless appealed to the City Council by filing a letter of appeal with the City Clerk within 14 days of the action by Planning Commission.

ANNEXATION NO. 01004
TO ANNEX PROPERTY LOCATED BETWEEN
SOUTH 14TH AND SOUTH 27TH STREETS,
NORTH OF YANKEE HILL ROAD.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

May 30, 2001

Members present: Krieser, Carlson, Taylor, Duvall, Newman, Schwinn, Steward and Bayer; Hunter absent.

Planning staff recommendation: Approval.

This annexation request was removed from the Consent Agenda and had separate public hearing.

Jason Reynolds of Planning staff appeared to answer any questions. The Director of Planning has requested this annexation. It is city policy to annex property that has become completely surrounded by the City Limits. The recent approval of Vavrina Meadows 1st Addition makes this area completely engulfed by the city.

Opposition

1. **James Drake**, 7900 South 14th Street, testified in opposition. He appeared at the time of the Vavrina Meadows zoning issues. He understands that this is an annexation by the City versus a voluntary annexation. He has been provided no information. His house will now receive city services, even though the annexation of Vavrina Meadows passed on a very controversial 4-3 vote before the Council. He inquired as to the schedule to provide the city services to these residences. The only thing he has learned is that this Commission has a very important role and anytime the Commission approves a development on a vote of 8-0, it becomes very difficult to change that process around.

Dennis Bartels of Public Works advised that there is typically no timing as far as serving the individual property owners. When annexed, they have a right to request an assessment district or some means to get the water and sewer there. An outlet to the trunk sewer is in place but there are no specific plans or timing in place for serving the individual properties until they request water or sewer service.

Steward inquired whether this means a majority of the affected property owners must request the district. Bartels advised that sewer and water can be built at the request of one property owner. It does not take a majority petition to order sewer and water mains to be constructed. It is a City Council decision.

Bayer wondered whether police and fire protection occur instantaneously with annexation. Bartels believes that the city would be responsible once the property is annexed. The city either serves it or works out an interlocal agreement with some of the rural services.

Bayer asked what benefit it is to the property owners to be annexed. Reynolds suggested that the primary benefit is that it provides public services for response in emergencies. This area, if not annexed, would be a small piece of county jurisdiction completely surrounded by city, which could create confusion and problems in dispatching emergency vehicles to the area. With the annexation, there are some options for provision of fire protection, including fire protection contracted by the city through the rural fire district, or individual water lines and hydrants could be installed such as what will happen in Vavrina Meadows 1st Addition.

Newman inquired whether the staff communicates with property owners that are going to be annexed. Reynolds stated that the Planning Department sends a letter to the property owners proposed to be annexed and attempts to answer the frequently asked questions. Reynolds confirmed that the property owners may keep their well and septic.

Public hearing was closed.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

May 30, 2001

Schwinn moved approval, seconded by Duvall.

Schwinn commented that sometimes for individual property owners this may be troubling; however, this is a very, very longstanding policy of our community that a piece of property completely surrounded by the city is annexed and we do not allow islands to exist. It has been a good policy and has served us well. He sees no reason to change that policy now.

Motion for approval carried 8-0: Krieser, Carlson, Taylor, Duvall, Newman, Schwinn, Steward and Bayer voting 'yes'; Hunter absent.

CHANGE OF ZONE NO. 3321
FROM R-7 RESIDENTIAL TO B-4 LINCOLN
CENTER BUSINESS DISTRICT,
ON PROPERTY LOCATED AT 1729 M STREET.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

May 30, 2001

Members present: Krieser, Carlson, Taylor, Duvall, Newman, Schwinn, Steward and Bayer; Hunter absent.

Planning staff recommendation: Denial.

The Clerk announced that the applicant has submitted a written request for a two-week deferral.

Duvall made a motion to defer, with continued public hearing and administrative action scheduled for June 13, 2001, seconded by Carlson and carried 8-0: Krieser, Carlson, Taylor, Duvall, Newman, Schwinn, Steward and Bayer voting 'yes'; Hunter absent.

There was no public testimony.

CHANGE OF ZONE NO. 69HP
FOR A LANDMARK DESIGNATION
and
SPECIAL PERMIT NO. 1914
TO USE A LANDMARK AS A CRISIS CENTER,
ON PROPERTY LOCATED AT
2545 N STREET.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

May 30, 2001

Members present: Krieser, Carlson, Taylor, Duvall, Newman, Schwinn, Steward and Bayer; Hunter absent.

Planning staff recommendation: Approval of the landmark designation and conditional approval of the special permit.

Ed Zimmer of the Planning Department submitted a letter in support received from John Recknor, a neighbor at 2525 N Street.

Zimmer showed slides of the subject property. This house has incurred a number of exterior changes over time, but there is abundant exterior detail from its ornate origins in the late 1880's and the current owners have painted it to enhance those features and strengthen the appearance. A corner porch was added in the early 20th century and an upper floor was

added to the porch later. There is a double story bay window on the east side with ornate brackets and trim. There is also very good survival on the interior even though it has been used for apartments, a group home and office use for several years. Even the exterior of the house on the second floor within the added porch retains all of the original features of the house.

The guidelines adopted by the Historic Preservation Commission suggest that the upper enclosure of the porch be removed in the future, if possible.

With the landmark application comes a special permit request under the specific provision that allows landmarks to request any use in any zoning district. The proposal is for continued use of the property as the Rape/Spouse Abuse Crisis Center. It has been in this use for quite some time. This seems to staff to be an appropriate zoning provision to regularize the existing and ongoing use.

Steward inquired whether there are any other properties on that block that are candidates for similar designation. Zimmer advised that the small house between this Pace-Woods House and the Murphy Sheldon House is a much more modest house with 19th century features and an added porch, but it has been re-sided in a later material. If it were associated with either of the other two houses it would have some possibility. A parallel example could be the Rogers House Bed & Breakfast that in later years expanded to the house beside it as a landmark special permit.

Steward commented that the property is at a transition in both time and location, and he wondered whether individual property is the best protection. Zimmer does not believe we have a historic district here. There are properties of interest, but there is a very large apartment building on the corner. This is a spotty area and he believes individual fits the case better than a district designation.

Carlson confirmed that there have been no comments from the residents or owners of the house in the middle. Zimmer confirmed that to be true.

Proponents

1. David Johnson, President of the Board of the Rape/Spouse Abuse Crisis Center (RSACC) and the architect, appeared to answer any questions. This is a use that has been in the building for 10 years. The need for this special permit to use the property for the Rape/Spouse Abuse Crisis Center became an issue when they applied for building permits for some renovations.

There was no testimony in opposition.

Public hearing was closed.

CHANGE OF ZONE NO. 69HP

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

May 30, 2001

Duvall moved approval, seconded by Newman and carried 8-0: Krieser, Carlson, Taylor, Duvall, Newman, Schwinn, Steward and Bayer voting 'yes'; Hunter absent.

SPECIAL PERMIT NO. 1914

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

May 30, 2001

Duvall made a motion to approve the Planning staff recommendation of conditional approval, seconded by Newman and carried 8-0: Krieser, Carlson, Taylor, Duvall, Newman, Schwinn, Steward and Bayer voting 'yes'; Hunter absent.

CHANGE OF ZONE NO. 3279

FROM AG TO AGR;

and

SPECIAL PERMIT NO. 1868,

WINDMILL RIDGE ESTATES COMMUNITY UNIT PLAN;

and

PRELIMINARY PLAT NO. 00023,

WINDMILL RIDGE ESTATES,

ON PROPERTY GENERALLY LOCATED

AT SOUTH 70TH STREET AND COUNTRYVIEW ROAD.

PUBLIC HEARING BEFORE PLANNING COMMISSION:

May 30, 2001

Members present: Krieser, Carlson, Taylor, Duvall, Newman, Schwinn, Steward and Bayer; Hunter absent.

Planning staff recommendation: Deferral; if not deferred, then Denial.

Mike DeKalb of the Planning staff submitted a letter in opposition from neighboring property owners with concerns about high density; destruction of wildlife habitat; destruction of natural resources—waterways, ground cover, runoff from ground chemicals; the Comprehensive Plan does not support this change of zone for development of this area; water service; well water is high in mineral content; concerned about soil subsystems; and adverse effects on property value.

Proponents

1. **Tom Huston**, 233 So. 13th Street, Suite 1900, appeared on behalf **Carl and Vicki Schmidt**, the applicants. This is a request for 23 residential lots combined with 7 outlots. The 7 outlots are crucial for this development. Outlot B and C align to South 70th and would provide open space for future urbanization. Outlot F would be the wastewater system. Outlots A, D, E and G are designed to protect the natural environs that exist including a large pond, wetlands, drainageways and the tree masses.

In response to the staff's recommendation of deferral, Huston does not believe it is appropriate. Back in 1995, an application was filed by the Schmidts for a change of zone from AG to AGR along with a preliminary plat showing 19 3-acre lots. At that time there were discussions with staff that indicated the proposal was premature and the applicants were asked to wait for the resolution of issues including the South Beltway study and the proposed county acreage policy. The applicants did withdraw that application, which was over 5 years ago.

In the meantime, the applicants have come up with a different concept to accommodate future urbanization of the site. In the fall of 2000, an application was submitted based upon the clustering concept under a community unit plan. Initially, the proposal included 26 residential lots, premised upon the cooperation of the abutting property to the south. That abutting property owner chose not to participate and the applicant has elected to proceed on the reduced number of 23 lots.

Last fall the applicants were asked to wait for the Southeast Lincoln/Hwy 2 subarea plan. They also asked for consideration for future urbanization during the debate on that subarea plan. The application was resubmitted in April, 2001, based upon a configuration of 23 lots clustered around the main amenity (the lake).

Huston is not sure what "deferral" means. In the view of his clients and with the concept of this proposal, Huston does not believe the new Comprehensive Plan will provide any additional information that will conflict with this proposal.

Huston also noted that one of the reasons to defer is based upon a perceived incompatibility with the Comprehensive Plan. When you look at Figures 16 and 17 of the Comprehensive Plan, this area is shown as AG, and Figure 65 shows this area being in Phase IV for future urbanization. A closer examination reveals that the conflict is not as large as anticipated. The Phase IV area of Figure 65 states a policy indicating that this development would comply with the Comprehensive Plan because that policy states that the community will encourage agricultural land, and in selected areas, low density residential uses. The staff report indicates that this land is very sub-prime agricultural land. This land has a rating of about 7.5. It is not prime agricultural land within the community. The Comprehensive Plan provides the goal that

development should use existing infrastructure--70th Street provides safe and sufficient access to this development.

Huston also commented that when he first read the staff report, he was surprised by the recommendation because he believes this proposal does comply with the statutory criteria. With regard to accommodation of future urbanization, Huston pointed out that the property to the west is developed in acreage use and is generally compatible. This site is approximately 69 acres. They anticipate 23 1-acre lots. It is more of an estate type of lot. 7 outlots comprise the balance, four comprising over 21.5 acres designed to protect and enhance the pond, wetlands, tree masses and drainageways. The three outlots for future urbanization comprise over 20 acres that could be added and fully developed to full urbanization if and when municipal services reach this area.

With regard to the physiographic features, Huston believes that this land is suitable for acreage development because it is sub-par agricultural land. He also noticed that the staff report has not even provided any conditions of approval. Huston submitted proposed conditions of approval, based upon the Planning Director later dated September 25, 2001. The only area of disagreement was the waiver for the block length for Country View Lane. We anticipate that certainly when urbanization reaches this area, Outlots B and C adjacent to South 70th would be urbanized and would be developed, and street connections to the properties to the north and to the south would have to be provided.

Huston believes that this area will urbanize. This proposal will allow a reasonable beneficial use to the owner and still accommodate future urbanization.

Huston indicated that he would not oppose a two-week deferral to discuss the proposed conditions of approval.

There was no testimony in opposition.

Duvall made a motion to defer for two weeks, with continued public hearing and administrative action scheduled for June 13, 2001, seconded by Taylor.

In the case that the deferral request passes, Steward suggested that it is prudent that staff give the Commission some direction on the question of accommodation of urbanization that the applicant is contending.

Motion to defer, with continued public hearing and administrative action scheduled for June 13, 2001, carried 8-0: Krieser, Carlson, Taylor, Duvall, Newman, Schwinn, Steward and Bayer voting 'yes'; Hunter absent.

COUNTY SPECIAL PERMIT NO. 186
FOR A GOLF COURSE, DRIVING RANGE,
CLUBHOUSE WITH RESTAURANT, AND A
MAINTENANCE FACILITY,
ON PROPERTY GENERALLY LOCATED
AT N.W. 140TH STREET AND W. HOLDREGE STREET.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

May 30, 2001

Members present: Krieser, Carlson, Taylor, Duvall, Newman, Schwinn, Steward and Bayer; Hunter absent.

Planning staff recommendation: Denial.

The Clerk announced that the applicant has submitted a written request for a two-week deferral to respond to the issues raised in the staff report.

Mike DeKalb of Planning staff submitted two letters in opposition with concerns about groundwater, traffic, property taxes, and the prior denial of this application by the County Board.

Steward made a motion to defer for two weeks, with continued public hearing and administrative action scheduled for June 13, 2001, seconded by Carlson and carried 8-0: Krieser, Carlson, Taylor, Duvall, Newman, Schwinn, Steward and Bayer voting 'yes'; Hunter absent.

Opposition

1. **Richard Hedges**, 100 N.W. 126th Street, testified in opposition. He has been in the water well business for over 40 years. He is experience-trained and academically-trained in geology and hydrology. In the area where he lives, without exception, there is very little water and it does have salt in it. If you pump this well hard, it undoubtedly will bring salt in more than it does now. The State Health Dept. has tested the well at their church resulting in a considerable amount of salt. He has tested his home and other homes have been tested and they all come out with salt. If the man says that he won't use the irrigation well and will pump out of ponds, this is fine. However, the NRD does not have an enforcement mechanism to monitor or prosecute. Hedges recommends that this golf course request be denied.

There was no further public testimony.

This hearing will be continued on June 13, 2001.

COMPREHENSIVE PLAN AMENDMENT NO. 94-61
TO DESIGNATE LAND NEAR N.W. 27TH AND W. FLETCHER AVENUE
AS INSIDE THE “FUTURE SERVICE LIMIT”, etc.
and
ANNEXATION NO. 00007
TO ANNEX PROPERTY GENERALLY LOCATED
AT N.W. 27TH STREET AND HIGHWAY 34 (KAWASAKI)
PUBLIC HEARING BEFORE PLANNING COMMISSION:

May 30, 2001

Members present: Krieser, Carlson, Taylor, Duvall, Newman, Schwinn, Steward and Bayer; Hunter absent.

Planning staff recommendation: Approval of the Comprehensive Plan Amendment and approval of the annexation, subject to an annexation agreement.

Proponents

1. **Stephen Henrichsen and Peter Katt** presented the application. Katt stated that he has been the representative of Kawasaki for a number of years and they are excited to become a part of this city. The two specific agenda items relate to the Comprehensive Plan Amendment, which will revise this area of our community and how it is available for urban level development, and the other is the Annexation Agreement, the terms of which have been negotiated over the last 4-5 months and we have reached final agreement. Katt believes the staff report is self-explanatory. There are open issues that remain to be addressed. Of most importance is accommodating the incorporation of the road network and that will need to involve the neighborhood association. They have had one meeting with the Highlands Neighborhood Association.

There was no testimony in opposition.

Public hearing was closed.

COMPREHENSIVE PLAN AMENDMENT NO. 94-61
ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

May 30, 2001

Duvall moved approval, seconded by Carlson and carried 8-0: Krieser, Carlson, Taylor, Duvall, Newman, Schwinn, Steward and Bayer voting ‘yes’; Hunter absent.

ANNEXATION NO. 00007

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

May 30, 2001

Duvall made a motion for approval, seconded by Krieser and carried 8-0: Krieser, Carlson, Taylor, Duvall, Newman, Schwinn, Steward and Bayer voting 'yes'; Hunter absent.

ANNEXATION NO. 99023

TO ANNEX 8101 AND 8201 SOUTH 14TH STREET.

PUBLIC HEARING BEFORE PLANNING COMMISSION:

May 30, 2001

Members present: Krieser, Carlson, Taylor, Duvall, Newman, Schwinn, Steward and Bayer; Hunter absent.

Planning staff recommendation: Approval, subject to an annexation agreement.

Proponents

1. **Don Bowman**, attorney for the applicants, stated that his clients are generally in favor of the annexation but they do have a couple of concerns. There is currently a claim pending against the city on behalf of these applicants, which claim is currently before the City Council. This annexation is being requested due to the situation with their sewer system. Schroeder has a septic system and the other property owner has a lagoon. When the city put the sanitary sewer in they damaged the lagoon and crushed the lateral that Schroeder uses. As a result, these property owners have a difficult time using their restroom facilities and showers. The sewage is seeping up in Schroeder's ground. The City Council held Schroeder's damage claim in abeyance waiting for this annexation to come before the Council.

Bowman also stated that one of the conditions for the annexation is that there will have to be a tappable extension. The engineering process will cost \$5,000-\$6,000 and because of the damage the city did causing these problems, Bowman believes the city should bear that cost. The Law Dept. has taken the position that the property owners are responsible for tapping into the water main. This issue still needs to be resolved. This has caused these property owners severe hardship.

There was no testimony in opposition.

Staff questions

Steward asked the Law Department to clarify whether the information provided by Bowman impacts the decision on the annexation. Rick Peo of the City Law Department advised that there are conditions of the annexation with regard to making the property sewerable and paying the connection fee that has been established by the city. It will be a matter of whether the City Council allows the claim in negotiating the costs.

Bowman concurred.

Public hearing was closed.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

May 30, 2001

Steward made a motion to approve the annexation, subject to an annexation agreement, seconded by Carlson and carried 8-0: Krieser, Carlson, Taylor, Duvall, Newman, Schwinn, Steward and Bayer voting 'yes'; Hunter absent.

**WAIVER OF DESIGN STANDARDS NO. 01005
TO WAIVE STREET PAVEMENT WITH CURB AND GUTTER,
SIDEWALKS, PUBLIC WATER SUPPLY, STREET LIGHTS
AND STREET TREES,
ON PROPERTY GENERALLY LOCATED
AT SOUTH 82ND STREET AND MANDARIN DRIVE.
PUBLIC HEARING BEFORE PLANNING COMMISSION:**

May 30, 2001

Members present: Krieser, Carlson, Taylor, Duvall, Newman, Schwinn, Steward and Bayer; Hunter absent.

Planning staff recommendation: Approval (as revised).

Becky Horner of the Planning Department submitted a revised staff recommendation to approve the waiver of public water supply, provided that the water mains be constructed at the time of the Mandarin Court Community Unit Plan or that a special assessment district be created to complete the construction, whichever occurs first. The property owners must agree not to object to the creation of a special assessment district.

Proponents

1. Brian Carstens appeared on behalf of Roger and Rosanna Schreiner. They have submitted application for an administrative final plat to carve a 2.25 acre parcel into two one-acre plus lots. As part of the administrative plat, the subdivider is required to post surety for

water, street paving with curb and gutter, sidewalks, street trees and street lights. This is a request to waive those requirements. Carstens agreed with the revised staff recommendation.

There was no testimony in opposition.

Public hearing was closed.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

May 30, 2001

Duvall moved to approve the Planning staff recommendation, as revised, which approves the waivers with certain provisions, seconded by Newman and carried 8-0: Krieser, Carlson, Taylor, Duvall, Newman, Schwinn, Steward and Bayer voting 'yes'; Hunter absent.

SPECIAL PERMIT NO. 1909

**TO PERMIT TEMPORARY STORAGE OF
CONSTRUCTION EQUIPMENT AND
MATERIALS ON PROPERTY GENERALLY
LOCATED AT 5400 SO. FOLSOM STREET.**

CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION:

May 30, 2001

Members present: Krieser, Carlson, Taylor, Duvall, Newman, Schwinn, Steward and Bayer; Hunter absent.

The Clerk announced that the applicant has submitted a written request to defer this application until July 25, 2001, in order to process an associated text amendment.

Duvall made a motion to defer until July 25, 2001, seconded by Schwinn and carried 8-0: Krieser, Carlson, Taylor, Duvall, Newman, Schwinn, Steward and Bayer voting 'yes'; Hunter absent.

There being no further business, the meeting was adjourned at 2:00 p.m.

Please note: These minutes will not be formally approved until the next regular meeting of the Planning Commission on June 13, 2001.